



House of Representatives

File No. 778

General Assembly

January Session, 2011

(Reprint of File No. 484)

Substitute House Bill No. 6333
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 9, 2011

AN ACT CONCERNING PROVISIONAL BALLOTS FOR STATE AND MUNICIPAL ELECTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-232c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 The moderator shall keep an accurate memorandum of the
4 challenge which shall include (1) the name of the challenged voter; (2)
5 [his] the challenged voter's registry list address; (3) the reason for the
6 challenge; (4) the name and address of the challenger; (5) pertinent
7 facts concerning the challenge; and (6) the result of the moderator's
8 decision. The challenged voter shall also sign such memorandum and
9 it shall be assigned the same number as the [challenged] provisional
10 ballot.

11 Sec. 2. Section 9-232j of the general statutes is repealed and the
12 following is substituted in lieu thereof (*Effective from passage*):

13 The moderator of the election in each voting district shall appear at

14 the office of the [town clerk] registrars of voters not later than eight
15 o'clock p.m. of the day before an election [for federal office] or a
16 primary. At such time, the [town clerk] registrars of voters shall
17 provide a provisional ballot packet to such moderator or moderators.
18 Each packet shall include: (1) The appropriate number of provisional
19 ballots, [for federal office provided by the Secretary of the State,] which
20 shall be equal to not less than one per cent of the number of electors
21 who are eligible to vote in the voting district served by the moderator,
22 or such other number as the [municipal clerk and the] registrars of
23 voters agree is sufficient to protect electors' voting rights, (2) the
24 appropriate number of serially-numbered envelopes prescribed by the
25 Secretary, (3) a provisional ballot inventory form, (4) a provisional
26 ballot depository envelope, and (5) other necessary forms prescribed
27 by the Secretary.

28 Sec. 3. Section 9-232k of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective from passage*):

30 The Secretary of the State shall prescribe [and provide to town
31 clerks] the provisional ballot which shall be [a] the regular ballot of
32 candidates, [for federal office.] The Secretary may prescribe that the
33 provisional ballot be the [overseas] ballot prepared under section [9-
34 158i] 9-135b.

35 Sec. 4. Section 9-232l of the general statutes is repealed and the
36 following is substituted in lieu thereof (*Effective from passage*):

37 (a) An individual may apply for and be issued a provisional ballot if
38 (1) the individual appears at the polling place and declares that such
39 individual is an elector in the town in which the individual desires to
40 vote and that the individual is eligible to vote in the primary or
41 election [for federal office] in the polling place, but the name of the
42 individual does not appear on the official registry list for such polling
43 place, and (2) the registrars determine that such name cannot be
44 restored under section 9-42 or transferred from another polling place
45 under section 9-35.

46 (b) If the moderator decides that an elector, whose name appears on
47 the registry list and who has been challenged pursuant to [sections]
48 section 9-232, [to 9-232f, inclusive,] is not eligible to vote in the primary
49 or election, [for federal office,] such elector may apply for and cast a
50 provisional ballot upon the execution of a written affirmation by the
51 elector at the polling place affirming that the elector is qualified to vote
52 in the election or primary [for federal office] in the polling place and
53 has neither offered himself or herself to vote nor voted in person or by
54 absentee ballot at said election or primary [for federal office] at the
55 polling place.

56 (c) Such application for provisional ballot shall be prescribed by the
57 Secretary of the State, executed before an election official and include a
58 written affirmation, under penalty of false statement in absentee
59 balloting pursuant to section 9-359a, which shall be in the form
60 substantially as follows:

61 AFFIRMATION: I, the undersigned, do hereby state, under
62 penalties of false statement, that:

63 1. I am an elector in the town indicated.

64 2. I am eligible to vote in the election or primary indicated [for
65 federal office] today in the town and polling place indicated.

66 3.a. My name does not appear on the official list of eligible voters for
67 the polling place indicated, and the polling place officials called the
68 registrars of voters and were told that my name did not appear on the
69 active registry list for this town for at least one of the four years
70 previous or on one of the preliminary active registry lists for this year;
71 or

72 b. The moderator decided that I am not eligible to vote [for federal
73 office] in the town indicated for the reason of disfranchisement, lack of
74 identity, lack of bona fide residence or failure to present the prescribed
75 identification required for new electors after January 1, 2003, indicated.

76 4. My residence address is located in the voting district that this
77 polling place serves.

78 5. I have not voted and I will not vote otherwise than by this ballot
79 in person or by absentee ballot at this election or primary. [for federal
80 office.]

81 6. I apply for a provisional ballot. [for federal office.]

82 Sec. 5. Section 9-232n of the general statutes is repealed and the
83 following is substituted in lieu thereof (*Effective from passage*):

84 Immediately after the close of the polls, the moderator shall seal the
85 provisional ballot depository envelope and deliver such envelope to
86 the registrars of voters of the town. The registrars of voters shall
87 forthwith verify the information contained with each provisional
88 ballot. If the registrars of voters determine that the applicant is eligible
89 to vote, they shall note their decision on the outer envelope of the
90 ballot and open and count the provisional ballot in accordance with
91 the provisions of sections [9-232i] 9-232j to 9-232o, inclusive, as
92 amended by this act, and procedures prescribed by the Secretary of the
93 State. If the registrars of voters are unable to determine that the
94 applicant is eligible to vote or determine that the applicant is not
95 eligible to vote, the applicant's provisional ballot sealed envelope shall
96 be marked "rejected", along with the reason for such rejection, and
97 signed by the registrars of voters. The registrars of voters shall verify
98 and count all provisional ballots in their town not later than six days
99 after the election or primary. The registrars of voters shall forthwith
100 prepare and sign in duplicate a report showing the number of
101 provisional ballots received from electors, the number rejected and the
102 number counted, and showing the additional votes counted for each
103 candidate [for federal office] on the provisional ballots. The registrars
104 of voters shall file one report with the town clerk and shall seal one in
105 the depository envelope with the provisional ballots and file such
106 depository envelope with the town clerk. The depository envelope
107 shall be preserved by the town clerk for the period of time required to

108 preserve counted absentee ballots, [for federal elections.] The head
109 moderator shall forthwith file a corrected return [for federal offices]
110 with the town clerk and the Secretary showing (1) the final votes after
111 any recanvass, pursuant to sections 9-311 to 9-311b, inclusive, the votes
112 on provisional ballots and the totals, and (2) the number of provisional
113 ballots received from electors, the number rejected and the number
114 counted, as reported by the registrars of voters.

115 Sec. 6. Subsection (e) of section 9-236b of the general statutes is
116 repealed and the following is substituted in lieu thereof (*Effective from*
117 *passage*):

118 (e) For use at elections [for federal office] and primaries, the
119 Secretary of the State shall prescribe and the [municipal clerk]
120 registrars of voters shall provide for all polling places in the
121 municipality: (1) Instructions on how to cast a provisional ballot, (2)
122 instructions for mail-in registrants and first-time voters who register to
123 vote by mail on or after January 1, 2003, (3) general information
124 concerning voting rights under federal and Connecticut laws,
125 including information on the right of an individual to cast a
126 provisional ballot and instructions on how to contact the appropriate
127 officials if these rights are alleged to have been violated, and (4)
128 general information on federal and state laws concerning prohibitions
129 on acts of fraud and misrepresentation.

130 Sec. 7. Subsections (d) and (e) of section 9-23r of the general statutes
131 are repealed and the following is substituted in lieu thereof (*Effective*
132 *from passage*):

133 (d) If an individual described in subsection (a) of this section does
134 not submit the identification described in subsection (a) of this section
135 as part of the individual's application for admission as an elector,
136 when the individual has entered the polling place in an election for
137 federal office, the individual shall present: (1) A current and valid
138 photo identification, or (2) a copy of a current utility bill, bank
139 statement, government check, paycheck or other government

140 document that shows the name and address of the voter. If an
141 individual does not meet the requirements of this subsection in an
142 election for federal office, such individual may cast a provisional ballot
143 prescribed under sections [9-232i] 9-232j to 9-232o, inclusive, as
144 amended by this act. For purposes of this section, "election for federal
145 office" means an election for electors of President and Vice President, a
146 presidential preference primary, an election or primary for United
147 States Senator and an election or primary for Representative in
148 Congress.

149 (e) If an individual described in subsection (a) of this section does
150 not submit the identification described in subsection (a) of this section
151 as part of the individual's application for admission as an elector, and
152 if the individual votes by absentee ballot in an election for federal
153 office, the individual shall enclose in the outer absentee ballot
154 envelope, and not in the inner envelope with the ballot: (1) A copy of a
155 current and valid photo identification, or (2) a copy of a current utility
156 bill, bank statement, government check, paycheck, or other
157 government document that shows the name and address of the voter.
158 If an individual does not meet the requirements of this subsection in an
159 election for federal office, such individual's absentee ballot shall be
160 processed in accordance with the provisions of subdivision (2) of
161 subsection (d) of section 9-150a, as amended by this act, and treated as
162 a provisional ballot [for federal office only,] pursuant to sections [9-
163 232i] 9-232j to 9-232o, inclusive, as amended by this act.

164 Sec. 8. Subsection (d) of section 9-150a of the general statutes is
165 repealed and the following is substituted in lieu thereof (*Effective from*
166 *passage*):

167 (d) (1) If the statement on the inner envelope has not been signed as
168 required by section 9-140a, such inner envelope shall not be opened or
169 the ballot removed therefrom, and such inner envelope shall be
170 replaced in the opened outer envelope which shall be marked
171 "Rejected" and the reason therefor endorsed thereon by the counters.
172 (2) If such statement is signed but the individual completing the ballot

173 is an individual described in subsection (a) of section 9-23r and has not
174 met the requirements of subsection (e) of section 9-23r, as amended by
175 this act, the counters shall replace the ballot in the opened inner
176 envelope, replace the inner envelope in the opened outer envelope and
177 mark "Rejected as an Absentee Ballot" and endorse the reason for such
178 rejection on the outer envelope, and the ballot shall be treated as a
179 provisional ballot [for federal offices only,] pursuant to sections [9-
180 232i] 9-232j to 9-232o, inclusive, as amended by this act.

181 Sec. 9. Subdivision (2) of subsection (a) of section 9-7b of the general
182 statutes is repealed and the following is substituted in lieu thereof
183 (*Effective from passage*):

184 (2) To levy a civil penalty not to exceed (A) two thousand dollars
185 per offense against any person the commission finds to be in violation
186 of any provision of chapter 145, part V of chapter 146, part I of chapter
187 147, chapter 148, section 7-9, section 9-12, subsection (a) of section 9-17,
188 section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h,
189 9-23j to 9-23o, inclusive, 9-23r, as amended by this act, 9-26, 9-31a, 9-32,
190 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-50a, 9-56, 9-59, 9-168d, 9-170, 9-
191 171, 9-172, [9-232i] 9-232j to 9-232o, inclusive, as amended by this act,
192 9-404a to 9-404c, inclusive, 9-409, 9-410, 9-412, 9-436, 9-436a, 9-453e to
193 9-453h, inclusive, 9-453k or 9-453o, (B) two thousand dollars per
194 offense against any town clerk, registrar of voters, an appointee or
195 designee of a town clerk or registrar of voters, or any other election or
196 primary official whom the commission finds to have failed to
197 discharge a duty imposed by any provision of chapter 146 or 147, (C)
198 two thousand dollars per offense against any person the commission
199 finds to have (i) improperly voted in any election, primary or
200 referendum, and (ii) not been legally qualified to vote in such election,
201 primary or referendum, or (D) two thousand dollars per offense or
202 twice the amount of any improper payment or contribution, whichever
203 is greater, against any person the commission finds to be in violation of
204 any provision of chapter 155 or 157. The commission may levy a civil
205 penalty against any person under subparagraph (A), (B), (C) or (D) of
206 this subdivision only after giving the person an opportunity to be

207 heard at a hearing conducted in accordance with sections 4-176e to 4-
 208 184, inclusive. In the case of failure to pay any such penalty levied
 209 pursuant to this subsection within thirty days of written notice sent by
 210 certified or registered mail to such person, the superior court for the
 211 judicial district of Hartford, on application of the commission, may
 212 issue an order requiring such person to pay the penalty imposed and
 213 such court costs, state marshal's fees and attorney's fees incurred by
 214 the commission as the court may determine. Any civil penalties paid,
 215 collected or recovered under subparagraph (D) of this subdivision for
 216 a violation of any provision of chapter 155 applying to the office of the
 217 Treasurer shall be deposited on a pro rata basis in any trust funds, as
 218 defined in section 3-13c, affected by such violation;

219 Sec. 10. Section 9-232o of the general statutes is repealed and the
 220 following is substituted in lieu thereof (*Effective from passage*):

221 Except as otherwise provided by the general statutes, section 9-232r,
 222 as amended by this act, and sections [9-232i] 9-232j to 9-232o, inclusive,
 223 as amended by this act, the provisions of the general statutes
 224 concerning procedures relating to counting absentee ballots shall apply
 225 as nearly as may be, in the manner prescribed by the Secretary of the
 226 State, to counting the provisional ballots under sections [9-232i] 9-232j
 227 to 9-232o, inclusive, as amended by this act.

228 Sec. 11. Sections 9-232d to 9-232f, inclusive, and section 9-232i of the
 229 general statutes are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	9-232c
Sec. 2	<i>from passage</i>	9-232j
Sec. 3	<i>from passage</i>	9-232k
Sec. 4	<i>from passage</i>	9-232l
Sec. 5	<i>from passage</i>	9-232n
Sec. 6	<i>from passage</i>	9-236b(e)
Sec. 7	<i>from passage</i>	9-23r(d) and (e)
Sec. 8	<i>from passage</i>	9-150a(d)

Sec. 9	<i>from passage</i>	9-7b(a)(2)
Sec. 10	<i>from passage</i>	9-232o
Sec. 11	<i>from passage</i>	Repealer section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
All Municipalities	STATE MANDATE - Potential Cost	Less than \$10	Less than \$10

Explanation

The bill results in a potential minimal cost of less than \$10 for each municipality. The bill authorizes the use of provisional ballots in state and municipal elections and primaries. It eliminates the requirement that the Secretary of the State (SOTS) provide towns with provisional ballots. Instead, municipalities must print these ballots using the provisional ballot format prescribed by SOTS.

As it is anticipated that SOTS will continue to order approximately the same number of provisional ballots (since they are also used for overseas voting), there is no anticipated savings to SOTS.

Municipalities may choose to designate an ordered ballot as provisional or may choose to photocopy an ordered ballot and designate it as provisional.¹ Therefore, there is minimal potential cost of less than \$10 to municipalities associated with ordering more ballots or ballot printing costs for each election cycle.

House "A" makes a clarifying change and does not result in a fiscal impact.

¹ Provisional ballots are not used in the optical scan machine.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6333 (as amended by House "A")******AN ACT CONCERNING PROVISIONAL BALLOTS FOR STATE AND MUNICIPAL ELECTIONS.*****SUMMARY:**

This bill (1) authorizes provisional ballots for use in state and municipal elections and primaries under the same circumstances as they are currently authorized for use in federal elections and primaries and (2) requires their use in place of challenged ballots.

The bill eliminates challenged ballots and the procedures for casting and counting them, replacing them with provisional ballots. However, it maintains the right of (1) individuals and appointed polling place challengers to challenge voters and (2) challenged voters to request a ballot and to vote.

The bill transfers, from town clerks to registrars of voters, certain election duties concerning provisional ballots. It also makes conforming and technical changes.

*House Amendment "A" clarifies the definition of "election for federal office" by adding to it "presidential preference primary."

EFFECTIVE DATE: Upon passage

WHEN PROVISIONAL BALLOTS MAY BE USED

The bill allows an individual to apply for and receive a provisional ballot to vote for candidates for state or municipal office when he or she:

1. appears at the polling place claiming to be eligible to vote but his or her name does not appear on the official registry list and the

registrars determine that the name cannot be immediately restored or transferred from another polling place,

2. is the subject of a challenge and the moderator decides he or she is not eligible to vote, or
3. registered by mail without the necessary identification and appears at a polling place or applies for an absentee ballot for the first time after registering without proper identification.

These provisions already apply to federal office elections, which the bill specifies include presidential preference primaries.

The registrars have six days after a primary or general election to authenticate the information on each provisional ballot. The ballots are kept separate and counted only after the registrars verify voters' eligibility. Under current law, challenged ballots are kept separate and counted only in the event of a contested election.

FORMAT AND PRINTING

By law, the secretary of the state prescribes the provisional ballot format. The bill authorizes these ballots to be in the same format as regular absentee ballots, rather than overseas ballots.

The bill eliminates the requirement that the secretary provide towns with provisional ballots. Instead, towns must print these ballots as they currently print regular and absentee ballots.

The bill also eliminates a requirement that town clerks and registrars of voters agree to an appropriate number of provisional ballot packets for each voting district. Instead, registrars alone must make that determination. Similarly, registrars, rather than town clerks, must provide moderators with provisional ballot packets on the night before a primary or election for municipal, state, or federal office.

INSTRUCTIONS AND OTHER INFORMATION

Current law requires the secretary to prescribe, and town clerks to

provide, certain information for polling places during an election for federal office. The bill transfers the clerks' responsibility to the registrars of voters and extends it to include primaries and elections for municipal and state offices. The information includes instructions on how to cast a provisional ballot, instructions for mail-in registrants and first-time voters, and voting rights information.

BACKGROUND

Provisional Ballots for Federal Office Candidates

To vote by provisional ballot, an individual must fill out an application under penalty of false statement attesting to his or her eligibility and current standing as an elector in the town where the polling place is located. The application includes a field for address, which helps the registrars verify the person's identity, and requires an attestation that the person has not yet voted in the present election.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 12 Nay 3 (03/23/2011)